

**STATE OF RHODE ISLAND CITY OF EAST PROVIDENCE
COUNTY OF PROVIDENCE ZONING BOARD OF REVIEW**

MINUTES

A special meeting of the East Providence Zoning Board of Review was held at 7:00 P.M., on Thursday, 15 January 2015, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice-Chairman

John Braga

Pier-Mari Toledo - ABSENT

Antonio H. Cunha

Richard Croke, Sr. – 1st Alternate

Gary Pascoa – 2nd Alternate - ABSENT

Edward Pimentel – Zoning Officer / Clerk

Gregory Dias – Assistant City Solicitor

Chairman Saveory then announces that it is the policy of the Zoning Board of Review to caution all petitioners that they have the right to counsel before the Board and failure to do so at this time does not constitute sufficient grounds for a change in circumstances under the

eighteen-month repetitive petition clause. All petitioners are also cautioned that if the petition is approved, all construction must be done in compliance with the submitted plan(s), application and testimony presented to the Zoning Board of Review. A change of any sought must obtain the requisite approval of the Zoning Board of Review. All work that deviates from the approval will be ordered halted and promptly removed. Comments will be limited to the petition being heard and no comments will be heard that do not pertain to an item scheduled on tonight's docket. He also notes that it is the policy of the Board that no new agenda item will be heard after 10:30 PM.

Chairman Saveory also notes that the Board welcomes any commentary from the public provided it solely pertains to an item on tonight's docket.

A. Swearing in of the Zoning Officer

Chairman Saveory asks Assistant City Solicitor Dias to swear in the Zoning Officer, Mr. Pimentel.

Chairman Saveory apologizes for moving the meeting from the 7th of January to tonight, and having to start the respecting hearing at 8:00 PM. The Board will do its best to expedite tonight's agenda –

hopefully before the 10:30 curfew.

II. SEATING OF ALTERNATE MEMBERS

Chairman Saveory informs the public that Ms. Toledo is absent, and therefore Mr. Croke, 1st Alternate, will be both a participating as well as voting member on all of tonight's agenda items.

Chairman Saveory then informs the public that Mr. Pascoa, 2nd Alternate, is likewise absent.

Chairman Saveory notes that there is a change in tonight's docket.

Zoning Officer informs the Board that Council for the last agenda item on tonight's docket has requested a continuance to the 4 February 2015, regularly scheduled meeting of the Zoning Board of Review. The item in question is the petition of MV, LLC., Bullocks Point Avenue.

Motion by Mr. Cunha to continue the referenced petition to 4 February 2015. The motion is Seconded by Mr. Braga, and Unanimously approved.

III. APPROVAL OF ZONING BOARD MINUTES

Chairman Saveory announces that there are no minutes for approval.

IV. ZONING OFFICER'S REPORT

Chairman Saveory announces that there is no report this month.

V. CORRESPONDENCE / DISCUSSION

A. 6 Drowne Parkway – request for withdrawal without prejudice.

Zoning Officer informs the Board that the subject applicant is simply unsure in what direction to go, and does not want to frustrate the Board with repeated requests for continuance. However, in case future zoning relief is required, they would prefer to have the opportunity of returning without having to wait eighteen-months, and therefore request without prejudice.

Motion by Mr. Beauparlant to permit withdrawal of the subject petition without prejudice. The motion is Seconded by Mr. Braga, and Unanimously approved.

B. MV, LLC, Floor Plan submittal, will be addressed revisited on 4 February 2015.

C. Discussion regarding Petition No. 6525 – 1067 Bullocks Point Avenue – Dimensional Relief Granted 11 September 2013. Violation issued for failing to comply with requisite conditions of approval. Petitioner argues that conditions are not as being enforced – requested meeting to discuss. [Decision with conditions attached.]

Zoning Officer provides a brief overview of the subject matter, and explains that there has been some disagreement between the subject property owner and himself in the strict interpretation of a specific condition of approval. Both out of courtesy to the property owner and because the Chairman has established a procedure to bring such matters back before the Board, he has placed it on tonight's agenda for discussion. He must advise the Board however, that due to the fact that this is not a formally Noticed and Advertised item, meaning no one has been formally informed of the discussion to ensue, no actual advice or decision may be rendered. This is purely to assist the Zoning Officer in understanding the condition imposed, to assure that it is being enforced in an appropriate manner.

Danial A. Ferreira, 1067 Bullocks Point Avenue, East Providence, RI.

Mr. Ferreira is not sworn in because this is not a formal hearing.

Mr. Ferreira informs the Board that he is simply requesting some clarification on the imposed condition of approval regarding the screening of the third-floor balcony. He was before the Board back in September, 2013, for permission to introduce a third-floor of living area and an associated third-floor balcony. The reason for the balcony was to have exterior water-views. They were always concerned about the privacy of the neighbors, and were considerate when introducing the balcony. It was always their understanding that they needed to screen from the adjacent side neighbors – ensuring their privacy. Clearly, the intent was always to be able to look out towards the water, otherwise what would be the reasoning for expending over \$5,000 in both engineering and construction costs. There is a large window situated just to the side of the balcony, and the same water-view is achieved. However, the missing element, is being able to sit outside with either a cup of coffee or glass of wine. His desire is to assure that everyone's needs are met – achieving his view of the water, while ensuring neighbor's privacy is protected. If that requires introducing even more intensive permanent screening, so be it. However, entirely blocking all views, other than towards the sky does not make any sense, given the expense involved. He suggests installing lattice towards the exterior facing the neighbors on both sides, thereby maintaining the lattice appearance, and then installing a solid opaque piece of plastic towards the interior so that neither the neighbors nor him-self can view each other. He also

suggests placing it on the interior of the rear rails, so that the view when sitting on the deck is only out towards the water – over all rear neighbors.

Mr. Ferreira than proceeds to distribute photographs of existing conditions for informational purposes only. Assistant City Solicitor Dias notes that receipt of the photographs for informational purposes only is acceptable – no motion is to be rendered because they are not being officially accepted into any record.

Mr. Braga asks the Zoning Officer on how he interpreted the referenced condition of approval? Zoning Officer responds that what is included in the recorded decision is exactly what was quoted in the motion. After the petitioner questioned the reasoning for such a condition, given his water-view objective, he went back and listened once again just to make sure no error was committed. If the quote had been taken out of context, he would have been more than prepared to record a corrective decision, without any expense to the petitioner. However, what is written, is exactly as stated by Mr. Croke. The Zoning Officer's responsibility is to enforce conditions of approval, literally as imposed. It is his personal opinion that a condition which states that "The proposed decking shall be screened from all adjacent residences," cannot be interpreted in any other manner. All adjacent residences has to include both side and rear.

Mr. Braga asks the petitioner if his request was clear for an

upper-story balcony. Mr. Ferreira responds in the affirmative. Mr. Braga notes that mandating enclosure on all sides results in the referenced improvement no longer being defined as a balcony. Zoning Officer responds that he does not necessarily disagree with Mr. Braga, however it is not his place to inquire why such a condition is being imposed. Board members hear testimony, ask questions, review submitted materials and exhibits, and then render a motion, that may or may not, include conditions of approval. If certain Board members, or the petitioner himself, disagree with the motion or any associated condition, the time to question, and/or, emphatically state that they cannot accept and comply, is during the hearing. It is for this very reason why he and the Chairman got together and authored the language that the Chairman reads at the conclusion of every motion, regarding the petitioner's understanding of the motion and any conditions imposed and full acceptance of said motion and conditions.

Mr. Beauparlant refers to the Minutes, in which during the testimony portion, only the side neighbors appeared to be of concern. Zoning Officer reiterates that he too was taken aback when the petitioner questioned the interpretation of the imposed condition, which resulted in carefully listening to the minutes once again – which by the way is public information – and assuring that the decision properly reflected the rendered motion.

Mr. Ferreira explains further why he did not consider the rear

neighbor as being included, is because he had had long conversations with him and he was fully accepting of the reasoning for introducing an upper-story balcony – even had a signed document attesting to this fact. He also agreed to remove a tree, at his own expense, which was bothering his rear neighbor.

Zoning Officer explains to the Board that he is more than willing to enforce whatever the Board deems appropriate. If the modifications described tonight by the petitioner are satisfactory to the Board, then that will be deemed appropriate enforcement of the referenced condition. However, he advises the Board that this whole matter presented itself as a result of side neighbors complaining about the lack of privacy screening.

Mr. Cunha inquires if it matters that neither he nor Mr. Braga were present during the hearing in question. Zoning Officer responds in the negative, noting that it is always the responsibility of current Board's to render opinions on past decisions, regardless of when they were issued. For example, during an appeal of the Zoning Officer in interpreting some quite dated decision.

Mr. Croke notes that he stands by his original motion. The reasoning was due to the overall height of the balcony – having the ability to look down upon so many surrounding residences and voiding any privacy rights. Regardless, of whether they are lying or sitting down, or even standing, a neighbor's privacy has all but been extinguished

without full screening. Would anyone here like to have a family cook-out, while an adjacent neighbor is looking down upon their property? He rendered a motion with conditions and the petitioner clearly accepted them. The stated conditions are recorded for anyone to listen to, as properly reflected in the recorded decision. Now he is willing to accept some other screening device, other than a curtain, such as a bamboo shade. However, he stands by his belief that all sides need to be fully screened. Mr. Ferreira concurs that his desire is likewise to protect both his own as well as all surrounding neighbor's privacy.

Mr. Braga asks Mr. Croke as to the intent of the imposed condition? Mr. Croke responds that he wanted assurance that all neighbors would be protected, including the rear property owners. He expected some form of screening on all sides. Mr. Braga inquires if some form of mesh screening is acceptable? Zoning Officer reiterates that the recording is public information, and it is his personal opinion that it was quite clear that it had to be some form of solid opaque screening.

And he agrees that during the discussion portion, only side neighbors were referenced because both side neighbors had been present that night and expressed their support, provided appropriate buffers were introduced. However, during the rendering of the motion, screening was not limited to solely the side neighbors. Perhaps he should have asked for clarification, considering only the side neighbors were present, however it is really not his role to intrude during the rendering of a motion, or to question the reasoning

for a specific condition of approval.

Additional discussion ensues, and it is eventually concluded that the petitioner will install lattice on the exterior of both sides for aesthetic purposes, with opaque screening towards the interior – screening that will completely obstruct the view of the side neighbors. In addition, solid opaque screening will be installed along the rear railing, height of the stated screening to be determined by the Zoning Officer and Solicitor after meeting on-site with the petitioner.

VI. STAFF REPORTS

A. Planning Department Staff Report – Previously Submitted.

B. Fire Department Memorandum – Dated 23 December 2014.

C. Complaint List – December, 2014.

Chairman Saveory announces that the referenced documents are already rendered part of the official record.

VII. CONTINUED BUSINESS

1. Kathy Davenport, 6 Drowne Parkway, being Map 504, Block 15,

Parcel 004.00, in a Residential 2 District. (Dimensional Variance - Petition No. 6561)

Withdrawn without prejudice earlier in the hearing.

VIII. NEW BUSINESS

1. Petition No. 6568: Paul Lalor, seeks Dimensional Relief, to permit construction of a second-floor addition onto a single-family residence, without complying with the minimum side-yard setback requirement pursuant to Section 19-145 – Nine and three-tenths (9.30) foot variance, resulting in second-floor decking being situated approximately five and seven-tenths (5.70) feet off of the northerly (side) property boundary, for property located at 100 Riverside Drive, being Map 414, Block 22, Parcel 004.00, in a Residential 3 District. . Adrienne Wood, Project Architect, 610 Manton Avenue, Providence, RI, is properly sworn in.

Ms. Wood informs the Board that her client is proposing a second-floor addition onto a pre-existing dimensionally non-compliant residence since minimally the 1930s. The present residence is quite small and is in desperate need of additional living space. The residence is presently situated with five and seven-tenths feet of the northerly (side) property boundary. Second-floor living space is permitted as a matter-of-right, however second floor decking

is proposed along the referenced side, which has been determined to be a deviation from the setback requirements. The second-floor addition, inclusive of the referenced decking, will not exceed beyond the footprint of the first-floor. She then refers to the submitted architectural drawings. She emphasizes that the primary objective was to protect the integrity and privacy of both neighbor as well as subject property owner, and therefore privacy screening will surround the deck.

Chairman Saveory queries the Board, beginning with Mr. Cunha.

Mr. Cunha inquires if the proposed decking is on the first, or second-floor, and whether it extends beyond the present footprint. Ms. Wood directs the Board to the Architectural Plans, and responds that there is an existing first-floor deck that is not being touched. The proposed decking will be on the second-floor and is entirely within the original first-floor footprint.

Mr. Cunha inquires as to access, and whether there will be any exterior access. Ms. Wood responds in the negative, noting that the deck will be situated directly off of the bedroom, and accessed by sliders. There will be no direct access from the exterior.

Mr. Cunha notes for the record that he did conduct a site inspection and concluded that the vast majority of the properties are quite undersized as well as improved with small residences. He is most

concerned about the nearest neighbor and potential impact. Ms. Wood responds that there will be a solid wall and full roof over the deck to assure the neighbor's privacy. She then submits a colored rendition illustrating the proposed improvements. Mr. Cunha acknowledges that it does appear to be a well thought-out improvement, but will withhold his opinion until hearing from the neighbors.

Motion by Mr. Cunha to accept the colored rendition plan, designated Exhibit 'A', and render it part of the official record. The motion is Seconded by Mr. Braga, and Unanimously approved.

Mr. Croke inquires as to the height of the proposed wall along the westerly side? Ms. Wood responds that it is a full floor height, as if it was a traditional room, with only the rear unenclosed. Mr. Croke notes that the only view therefore will be directed towards the waterside. Ms. Wood responds in the affirmative.

Mr. Croke inquires if any part of the addition will extend beyond the first-floor footprint? Ms. Wood responds in the negative.

Mr. Braga notes for the record that he finds the proposal quite reasonable. It is a mere side-yard deviation associated with a deck, and the relief appears quite minimal.

Mr. Beauparlant likewise acknowledges the appropriateness of the

subject proposal, and therefore has no objection. He compliments the effort in assuring the neighbor's privacy is protected.

Chairman Saveory likewise compliments the submission. The only concern is the terminology used. It says a privacy wall will be introduced, when in fact it will be a solid wall. He would like to see the submission revised to acknowledge a solid wall. Zoning Officer recommends including that as a condition of approval.

Chairman Saveory inquires if there is anyone else present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Cunha, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Cunha hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Cunha moves that the dimensional variance be Granted subject to the petitioner fulfilling the following conditions:

1. The wall along the northerly side be improved with a solid wall to entirely screen the proposed second-floor decking.

2. Petitioner(s) obtaining any, and all, necessary permits.

3. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Ms. Wood, on behalf of her client, if she accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Ms. Wood responds that she fully understands and accepts the conditions just stipulated, on behalf of her client.

The motion is Seconded by both Mr. Beauparlant and Mr. Croke.

Roll Call Vote:

Mr. Cunha - Aye The relief results from pre-existing conditions: undersized

parcel and dwelling placement. Furthermore, this is a mere technicality, because the so-called deck is only open towards the water side. If it were totally enclosed

It would have been allowed as a matter-of-right.

Mr. Croke - Aye Property pre-dates zoning, having been present since minimally 1938. Both the lots and residences were constructed in such close proximity to one another. The size of the residence is rather undersized

and there has been great protection afforded the neighbor.

Mr. Braga - Aye Concurs with fellow Board members. The relief sought

is rather minimal and the least relief necessary.

Mr. Beauparlant - Aye Concurs with fellow Board members and notes that it

will in no way be detrimental to the surrounding neighbors.

Chairman Saveory - Aye It is a well thought-out plan, and perhaps the least

Intrusive proposal ever present on the Terrace.

Dimensional variance unanimously granted, subject to the aforementioned condition(s).

2. Petition No. 6569: James DePasquale, seeks Dimensional Relief, to permit retention of a rear-yard deck addition onto a single-family residence, without complying with both front-yard and rear-yard setback requirements, as described below, for property located at 1282 Wampanoag Trail, being Map 811, Block 07, Parcel 006.00, in a Residential 2 District.

A. Dimensional Variance, to permit retention of the referenced deck improvement without complying with the requisite front-yard setback pursuant to Section 19-145 – Three and one-half (3.50) foot variance,

resulting in the stated deck improvement being situated within approximately twenty-one and five-tenths (21.50) feet of the southerly (front) property boundary, fronting Mohawk Drive.

B. Dimensional Variance, to permit retention of the referenced deck improvement, without complying with the requisite rear-yard setback pursuant to Section 19-145 – Three and two-tenths (3.20) foot variance, resulting in the stated deck improvement being situated within approximately twenty-one and eight-tenths (21.80) feet of the easterly (rear) property boundary.

James DePasquale, subject petitioner, 30 Dante Street, Barrington, RI, is properly sworn in.

Mr. DePasquale informs the Board that he is simply seeking permission to retain a deck that was inadvertently constructed without the benefit of any building permit.

Chairman Saveory queries the Board, beginning with Mr. Cunha.

Mr. Cunha notes for the record that it was very difficult to find the property, given its location and difficulty in accessing the property. He has no personal objections considering it is situated to the rear, and therefore well screened. He also notes that he is sympathetic to the petitioner's residence right off of the Trail, and quite honestly believes he is entitled to the deck for that very reason.

Mr. Croke notes that he too has no personal objection. He is however frustrated by the growing problem of individuals seeking permission after the fact. A building permit should have been obtained, and he fears the precedent they set every time approve such a situation.

Mr. Braga inquires if there is any coverage relief as well. Zoning Officer responds that the relief required solely pertains to setbacks – front and rear.

Mr. Beauparlant notes that he fully concurs with Mr. Croke's comments.

Chairman Saveory notes that his only confusion was in regard to the application, which indicated that it was a proposed deck, and yet when inspecting the premises it was clear the deck has long been built. He inquires as to when the deck was introduced? Mr. DePasquale responds that it was around the September / October timeframe.

Mr. DePasquale adds that his insurance company mandated that he repair the rear stairs, or seek an alternative solution, otherwise they would drop his policy. He panicked and built it immediately. In hindsight, he wished he had done it properly.

Chairman Saveory inquires if there is anyone else present who would like to speak in favor of the subject petition. Hearing and seeing

none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Cunha, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).
2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.
4. That the relief to be granted is the least relief necessary.

Mr. Cunha hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Cunha moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

- 1. Petitioner(s) obtaining any, and all, necessary permits.**
- 2. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.**

Chairman Saveory asks Mr. DePasquale, if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. DePasquale responds that he fully understands and accepts the conditions just stipulated.

The motion is Seconded by Mr. Beauparlant.

Roll Call Vote:

Mr. Cunha - Aye

Mr. Croke - Aye

Mr. Braga - Aye Notes that the deck has already been constructed. However, he personally believes that if the petitioner had properly sought approval in the correct order he would have nevertheless approved because the relief sought is quite minor, and therefore both reasonable and the least relief necessary.

Mr. Beauparlant - Aye Concurs with Mr. Braga. Also, considering the deck's location to the rear of the residence, it will not have any impact on the surrounding neighborhood.

Chairman Saveory - Aye He too finds it conducive to the neighborhood, and a very reasonable proposal. He reminds the petitioner that even done in a reverse manner, to now follow-up and properly obtain the necessary building permit.

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

Chairman Saveory, requests a five-minute recess.

3. Petition No. 6570: Estacio and Suzette DeCastro, seek Dimensional Relief, to permit construction of an attached accessory garage onto a single-family residence as well as retention of an existing accessory garage, without complying with certain dimensional criteria as described below, for property located at 67 Cotter Street, being Map 406, Block 03, Parcel 012.00, in a Residential 4 District.

A. Dimensional Variance, to permit construction of the stated garage, without complying with the requisite accessory (side-yard) setback pursuant to Section 19-144(b) – Two and twenty-two one-hundredths (2.22) foot variance, resulting in the referenced garage being situated within approximately two and seventy-eight one-hundredths (2.78) feet of the northerly (side) property boundary.

B. Dimensional Variance, to permit retention of the accessory shed, without complying with the requisite accessory (rear-yard) setback pursuant to Section 19-144(b) – Three (3) foot variance, resulting in the referenced shed being situated within approximately two (2) feet of the easterly (rear) property boundary.

C. Dimensional Variance, to permit construction of the stated garage, resulting in exceeding the maximum building coverage requirement pursuant to Section 19-145 – Three and four-tenths (3.40%) percent variance, resulting in the subject property being covered

approximately twenty-eight and four-tenths (28.40%) percent with total structures.

Estacio F. and Suzette DeCastro, subject petitioners, 67 Cotter Street, East Providence, RI, are both properly sworn in.

Mr. DeCastro requests that the Board start with their questioning.

Chairman Saveory queries the Board, beginning with Mr. Braga.

**Mr. Braga inquires if the subject proposal is for a two-car garage?
Mr. DeCastro responds that it is merely one-stall garage.**

Mr. Braga notes for the record that he is not so much concerned about the excessive coverage, because the relief sought is quite minor. However, the setback is quite close, and that does raise some concern. He inquires if the petitioner has spoken with the immediate neighbor – most impacted by the proposed improvement. Mr. DeCastro responds in the negative, noting that he is not even sure of their names because he is brand new to the neighborhood.

Mr. DeCastro is somewhat confused by his own proposal, and the Board explains that they must rely on the submitted Class I Surveyed site plan. Mr. Braga then notes that the relief sought has not been unheard of, and each application is individually reviewed for appropriateness.

Mr. Beauparlant notes that in his opinion that garage is quite large, being 30-feet overall in length and 16-feet in width. It appears much larger than the standard garage. His understanding is that the standard one-car garage has an approximate width of 12-feet. Mr. DeCastro responds that the present stairs and bulkhead are situated along that side of the residence, and will therefore have to be incorporated into the garage. Given that they extend approximately four-feet from the house, leaves only 12-feet within the garage to permit vehicle storage.

Mr. Beauparlant responds that he now understands the reasoning for the overall width, but inquires about the length, because 30-feet is quite a bit larger than a standard garage. Mr. DeCastro responds that the vehicle his wishes to store within the garage is his work truck. He is in the construction business, and has quite a number of valuable tools stored on the truck. Presently, he has to remove all tools and equipment and store them in the basement. His desire is to eliminate this arduous, daily task.

Mr. Cunha notes for the record that the overall length is not necessarily out of the ordinary, because a standard garage is somewhere between 25 to 26-feet in overall length. He does inquire if it is at all possible to relocate the stairs in order to increase the setback? Mr. DeCastro responds that there are two (2) problems – the stairs and bulkhead. The bulkhead extends just as far as the stairs, and there is simply no way to relocate it.

Mr. Cunha notes that the proposed setback is not necessarily objectionable, and will therefore wait to hear from the immediate neighbors, if present.

Mr. Croke inquires if the petitioner just recently purchased the property? Mr. DeCastro responds in the affirmative.

Mr. Croke inquires if the petitioner was aware of the requisite setback, considering he is a contractor. Mr. DeCastro responds that he was not aware of the five-foot setback.

Mr. Croke explains that it is his understanding that the neighbor has a garden and other improvements in that area, and the garage addition will greatly impact their property. He is sympathetic as to his need for a garage to protect his personal property, however he too must be concerned about the neighbor's enjoyment of their property.

Chairman Saveory acknowledges for the record that he conducted a site inspection of the subject property and surrounding neighborhood, and has concluded that the proposed garage will neither negatively impact the immediate neighbor nor surrounding neighborhood. It is an older neighborhood with residences situated on undersized parcels, and improved with numerous pre-existing setback non-conformities. His only request is that the roof-runoff associated with the garage be directed into a dry-well.

After much discussion with the Board, it is concluded that gutters will not be required on the side facing the immediate neighbor due to the proposed roof pitch, however, connecting to a dry-well will be required to off-set clean roof run-off.

Mr. Cunha inquires if the overall height will be higher than the present residence. Mr. DeCastro responds that it will be approximately two-feet lower than the residence.

Zoning Officer first informs the Board that the neighbor residing at 76 Cotter Street, Mr. Robert Gomes, which is directly across the street and would therefore be looking directly upon the garage, has informed his office that he has no personal objection.

Zoning Officer then asks the petitioner, if the setback provided is to the foundation wall or any overhang, if any is proposed? Mr. DeCastro responds that no overhang whatsoever is proposed. Zoning Officer states that the petitioner's elevation plan illustrates an overhang. Mr. DeCastro responds that that is an error. Mr. Cunha likewise notes that the elevation plan appears to illustrate a garage higher than the proposed residence, also an error. Zoning Officer responds that the plans are supposed to reflect exactly what is being proposed. Mr. Beauparlant recommends including the discrepancies as conditions of approval.

Zoning Officer asks the petitioner as to the exact overall height of the proposed garage from average grade to peak of ridge. Mr. DeCastro responds that it will be no higher than 13-feet.

Zoning Officer then asks once again for the record that there will be no overhang facing the immediate neighbor – it will be flush with the side wall. Mr. DeCastro responds in the affirmative. Zoning Officer reiterates that all of these construction details be included as conditions of approval. Chairman Saveory notes that the elevation plans are quite deceptive.

Chairman Saveory inquires if there is anyone else present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition.

Michelle Monteiro, 5 Roslyn Avenue, East Providence, RI, requests permission to speak against the subject petition. Ms. Monteiro is properly sworn in.

Ms. Monteiro informs the Board that the proposed setback is quite close, and she is therefore concerned about blocking her view – almost the entire length of her backyard. She is also impacted about real estate value, and ability to sell her own home.

The Board members explain that hardship results from the presence of stairs and bulkhead, otherwise five-foot setback compliance

appears doable.

Ms. Monteiro adds that many of the surrounding residences are already too close, and this will only contribute to this problem. Mr. Braga notes that her residence faces Roslyn Avenue, and this is therefore her back-yard, which in his opinion lessens the impact. Mr. Beauparlant notes that based on submitted elevation plans, it appears that the garage could be reduced by at least a foot. Mr. Braga also notes that in his opinion, the introduction of a garage will increase his personal property value, and in turn the value of the neighborhood. Ms. Monteiro responds that the garage is so large, and it is out of character because the few to no garages in the neighborhood. Mr. Braga simply notes that he finds it a reasonable proposal.

Chairman Saveory then inquires if there is anyone else present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Braga, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a

physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Braga hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

[NOTE: Mr. Braga expresses the conditions of approval. However, following completion of the Motion, the petitioner requests additional modifications which results in the motion be rescinded. Much discussion ensues about additional conditions of approval, given the

many associated elevation errors?]

Motion by Mr. Braga, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Braga hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Braga moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

1. The proposed garage will be approximately two-feet lower in overall height than the existing residence.

2. The proposed garage will be no higher than approximately 12-feet to the ridge.

3. The rear exit door will be situated along either the southeasterly or southwesterly corner (towards the interior of the yard) of the proposed garage.

4. No windows will be permitted on the northerly side of the garage, fronting Parcel 011.00.

5. A window will be permitted on the rear, or easterly side, of the proposed garage.

6. Petitioner(s) obtaining any, and all, necessary permits.

7. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Mr. DeCastro, if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. DeCastro responds that he fully understands and accepts the conditions just stipulated.

The motion is Seconded by Mr. Cunha.

Roll Call Vote:

**Mr. Braga - Aye The relief sought is quite minor and is unavoidable
Due to the presence of the stairs and bulkhead.**

Mr. Beauparlant - Aye It will not detract from the neighborhood.

**Mr. Cunha - Aye Concurs that the stairs and bulkhead create
Hardship, and that these conditions pre-date
The subject petitioner.**

**Mr. Croke - Nay Petitioner should have been aware of the property's
Limitations. He believes that it will have a negative
Impact on the immediate neighbor, and a garage
Is out of character with the surrounding**

Neighborhood.

Chairman Saveory - Aye States for the record the number of substandard lots

Throughout the surrounding neighborhood, and indicates

That this simply the general character. Believes that a

Garage will contribute in a positive manner.

Dimensional variances granted in a four (4) to one (1) vote, with Mr. Croke voting against, subject to the aforementioned condition(s).

4. Petition No. 6571: Robin Pfahning, seeks Dimensional Relief, to permit construction of an addition onto a single-family residence, without complying with certain dimensional criteria as described below, for property located at 43 White Avenue, being Map 313, Block 05, Parcel 007.00, in a Residential 4 District.

A. Dimensional Variance, to permit construction of the referenced addition, without complying with the minimum side-yard setback requirement pursuant to Section 19-145 – Five and two-tenths (5.20) foot variance, resulting in the stated addition being situated within approximately two and eight-tenths (2.80) feet of the southerly (side) property boundary.

B. Dimensional Variance, to permit construction of the referenced addition, without complying with the minimum side-yard setback requirement pursuant to Section 19-145 – Two and seven-tenths

(2.70) foot variance, resulting in the stated addition being situated within approximately five and three-tenths (5.30) feet of the northerly (side) property boundary.

C. Dimensional Variance, to permit construction of the referenced addition, resulting in an excessive number of stories pursuant to Section 19-145 – One (1) story variance, resulting in the subject residence being improved with a total of three (3) stories of physical, habitable living area.

D. Dimensional Variance, to permit construction of the referenced addition, resulting in exceeding the maximum building coverage requirement pursuant to Section 19-145 – Four and four-tenths (4.40%) percent variance, resulting in the subject property being covered approximately twenty-nine and four-tenths (29.40%) percent with total structures.

E. Dimensional Variance, to permit construction of the referenced addition, resulting in exceeding the maximum impervious lot coverage requirement pursuant to Section 19-145 – Four (4%) percent variance, resulting in the subject property being covered approximately forty-nine (49%) percent with total impervious surface, to include all structures.

Robin Pfahning, subject petitioner, 43 White Avenue, East Providence, RI, is properly sworn in.

Ms. Pfahning notes the she is simply seeking permission to construct a rear-yard addition onto her home.

Chairman Saveory queries the Board, beginning with Mr. Cunha.

Mr. Cunha notes for the record that he is somewhat familiar with the property, having previously inspected when they appeared before the Board to amend their boundary lines.

Mr. Cunha inquires if the proposed improvement will be higher than the present residence? Ms. Pfahning responds in the affirmative. Zoning Officer explains that this is somewhat similar to the Bullocks Point Avenue matter discussed at the outset of tonight's meeting. Overall height is compliant, however they are seeking an excessive number of habitable stories – realizing a third-floor of physical living area.

Mr. Cunha acknowledges that he misunderstood. He was under the misconception that the property sloped off towards the rear, and therefore the addition took on the appearance of being a third-floor.

Mr. Cunha inquires if the petitioner has spoken with the neighbor across White Avenue, considering their view may be impacted? Ms. Pfahning responds that she the property directly across White Avenue as well.

Mr. Cunha notes for the record that he does not have any personal objections, because all of the surrounding properties are quite substandard and therefore unable to comply with current regulations.

Zoning Officer adds that there has been fairly new construction that is quite sized. Ms. Pfahning notes that many of the older residences are smaller in stature, however, she will not exceed the height of the newest structures built just two (2) lots distance.

Mr. Croke inquires if the residence pre-dates present regulations?

Ms. Pfahning responds that she believes it was constructed in the 1930s. Chairman Saveory states that he believes it was introduced around the turn-of-the-century.

Mr. Croke inquires if the residence will remain a single-family home?

Ms. Pfahning responds in the affirmative.

Mr. Croke inquires as to the purpose for the addition? Ms. Pfahning responds that it is predominantly to realize much-needed bedrooms. She has a child that presently has no separate bedroom. She is also an artist and would like to have an appropriately sized studio.

Mr. Croke inquires if the petitioner will occupy the residence? Ms. Pfahning responds in the affirmative.

Mr. Braga inquires if the improvement in question is the illustrated three-story rear addition? Ms. Pfahning responds in the affirmative,

noting that the existing residence is the illustrated two-story front portion.

Mr. Braga notes that it is everything illustrated towards the rear. Ms. Pfahning responds in the affirmative.

Mr. Braga notes for the record that he finds the proposal quite reasonable. The setbacks are pre-existing, and the coverages rather minimal. There will be no impact on any rear neighbor, because it is out towards the water-side.

Mr. Beauparlant notes that there is an elevated deck shown on the plans. He inquires if that is a second-floor or third-floor deck? Ms. Pfahning responds that there is second-floor balcony proposed. The illustrated deck is actually on the ground-floor.

Zoning Officer notes that if the Board has any concern, they can always limit by means of imposed conditions.

Chairman Saveory likewise acknowledges that the proposal appears reasonable. He too asks for the overall purpose? Ms. Pfahning responds that it is bedrooms, new kitchen, bathroom and studio, and perhaps an office for her husband.

Chairman Saveory inquires as to where she parks her vehicles? Ms. Pfahning responds that she parks at her residence across the street.

Chairman Saveory inquires if there is anyone else present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Cunha, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Cunha hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Cunha moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

1. That the proposed balcony be limited towards the rear, second-floor elevation.

2. That the proposed deck be limited towards the rear, ground-floor elevation.

3. That the front the residence remain unchanged.

4. Petitioner(s) obtaining any, and all, necessary permits.

5. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony

provided during the respective hearing.

Chairman Saveory asks Ms. Pfahning, if she accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Ms. Pfahning responds that she fully understands and accepts the conditions just stipulated.

The motion is Seconded by Mr. Beauparlant.

Roll Call Vote:

Mr. Cunha - Aye The lot is quite undersized and pre-dates the adoption of the City's zoning regulations. Any improvement would require zoning relief. He personally believes that it will contribute to the character of the neighborhood.

Mr. Croke - Aye Pre-dates zoning and the purpose is quite reasonable.

Mr. Braga - Aye Concurs with Mr. Cunha and Mr. Croke.

Mr. Beauparlant - Aye Concurs with fellow Board members.

Chairman Saveory - Aye The property does pre-date zoning and will contribute to the neighborhood.

Dimensional variances unanimously granted, subject to the

aforementioned condition(s).

IX. PROCEDURES

Chairman Saveory announces that he has personally requested some preliminary discussion regarding Electronic Message Center signage.

He then refers to the Zoning Officer for a description of the referenced dilemma.

Zoning Officer informs the Board that following the recent petition from AAA, in which they requested an EMC of sorts, the Board stated during that petition that some consistency is required in the enforcement of such signage. This has resulted in tonight's discussion. Initially, this type of signage was unregulated, which resulted in the proliferation and eventual adoption of regulatory language outright prohibiting any signage in which information was permitted to change, regardless of the frequency of said changes. This even included time/temp signage and fuel dispensing stations that have their fuel prices illuminated. A few years back, there was an attempt to allow such signage, but the Council refused to change the regulations. Subsequent to that failed vote, there was a determination by the then Solicitor's Office, that the outright prohibition did not include signage that changed infrequently. However, what was not included in that legal opinion was a determination as to frequency appropriateness. This resulted in the

Zoning Officer's hands being tied, and having to be creative in the enforcement of such signage. Needless to say, parties have requested such signage, agreeing to limit the number on message changes, and they failing to abide by the agreements. This has resulted in a self-imposed moratorium. Regardless, certain powers that be have over-ridden the moratorium and assisted in permitting introduction of additional EMCs. In discussion with the Chairman, it was agreed that the zoning language must be amended to be absolutely clear as to permissibility, and the frequency of changes that will be acceptable to the Council. He therefore asked that I place it on a formal zoning agenda for Board's discussion and vote.

The Board discussed the matter and rendered a formal motion.

Motion by Mr. Cunha to refer the signage regulations, specifically those pertaining to Electronic Message Centers, to the Planning Department / Planning Board for discussion and advisory opinion. The motion is Seconded by Mr. Braga, and Unanimously approved.

X. ANNOUNCEMENTS

Chairman Saveory announces that the next meeting of the Zoning Board of Review is scheduled for Wednesday, 4 February 2015, at 7:00 PM, in the City of East Providence Council Chambers, City Hall, East Providence, RI.

XI. ADJOURNMENT

Motion to adjourn by Mr. Croke. The motion is Seconded by Mr. Braga and Unanimously voted to adjourn. Meeting is adjourned at 10:20 P.M.

Edward Pimentel, AICP

Zoning Officer / Clerk

Secretary